

REMARKS

Claims 1-9, 11-20, 23 and 24 are in the application, with Claims 1, 4, 12, 19 and 20 having been amended, with Claims 10, 21 and 22 having been cancelled, and with Claims 23 and 24 having been added. Claims 1, 12 and 20 are the independent claims herein. No new matter has been added. Reconsideration and further examination are respectfully requested.

The informalities in the specification noted by the Examiner have been corrected, along with a few others. An informality in claim 19 has also been corrected.

Claim Rejections – 35 USC § 112

Claims 1-9 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite.

It is believed that this rejection has been overcome by the above-noted amendment to claim 1 that removed the phrase, “the second consensus estimate”.

Claim Rejections – 35 USC § 103

Claims 1-5, 9, 15, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gatto U.S. Patent No. 6,681,211 in view of Jessop et al. U.S. Publication No. 2003/0046095 and “Why Analysts Still Matter” by Jon Birger, hereinafter referred to as Birger.

Claim 1, as now amended, is directed to a “computerized apparatus for managing risk associated with earnings estimates for a company”. The apparatus is recited as including “a computer server comprising a processor and a digital storage and accessible with a system access device via a communications network” and “executable software stored on the computer server and executable on demand”. Claim 1 further recites that the executable software is operative with the processor to cause the computer to perform the following functions: “receive into the digital storage data descriptive of multiple earnings estimates, each earnings estimate generated by a respective bank”; “receive into the digital storage data indicative of one or more business relationships comprising a bank and the company”; “generate a first consensus estimate excluding earnings estimates received from the bank with the data indicative of one or more business relationships with the company”; “transmit, to the bank, data comprising a message that

the bank's earnings estimate is excluded from the first consensus estimate"; and "generate a suggested action based upon the first consensus estimate".

The function to "transmit, to the bank, data comprising a message that the bank's earnings estimate is excluded from the first consensus estimate" in part reflects a limitation that was present in former claim 10, and is further supported at page 7, lines 25-27 of the specification of this application in regard to the message being sent to the bank that was the source of the excluded earnings estimate.

At least with the addition of this new limitation, it is believed that claim 1 is patentable over the combination of references applied thereto by the Examiner. The Gatto reference does not disclose sending to the source of an excluded earnings estimate a message to indicate the exclusion. In the most nearly pertinent portion of Gatto—at column 16, line 23¹--the reference discloses displaying exclusion data to a user of the system, but not sending a message to the source of an excluded earnings estimate, as now recited in claim 1. The Jessop and Birger references also do not disclose this new limitation of claim 1.

In view of the amendment to claim 1 and the above remarks, it is respectfully submitted that the rejection of claim 1 has now been overcome.²

The other independent claims, which are claims 12 and 20, have been amended in like manner as claim 1, and are submitted as patentable on the same basis as claim 1. The dependent claims are submitted as patentable on the same basis as the independent claims.

Support for the new claims 23 and 24 is found at page 7, lines 3-5 of the specification of the present application.

¹ Cited by the Examiner with respect to former claim 10.

² Applicant also respectfully questions whether the prior art, considered as a whole, can properly be said to render claim 1 obvious, as originally presented. It could at least equally be argued that the Examiner has been guided by hindsight and the teachings of the present invention to seek out and knit together individual teachings of the references, with a logic that does not follow from the prior art itself. In this regard, for instance, it is noted that the "bias error" referred to in Gatto has nothing to do with an analyst being biased for or against a company that he/she analyzes. Nevertheless, in order to more rapidly advance the application to allowance, claim 1 has now been amended so as to be more sharply distinguished from the prior art.

CONCLUSION

Accordingly, Applicant respectfully requests allowance of the pending claims. If any issues remain, or if the Examiner has any further suggestions for expediting allowance of the present application, the Examiner is kindly invited to contact the undersigned via telephone at (203) 972-3460.

Respectfully submitted,

January 18, 2008
Date

/Nathaniel Levin/
Nathaniel Levin
Registration No. 34,860
Buckley, Maschoff & Talwalkar LLC
50 Locust Avenue
New Canaan, CT 06840
(203) 972-3460